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98TH CONGRESS
1st Session

SENATE

REPORT
No. 98–54

WYOMING WILDERNESS ACT OF 1983

APRIL 5, 1983.—Ordered to be printed

Mr. MCCLURE, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 543]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 543) to designate certain national forest system lands in the State of Wyoming for inclusion in the National Wilderness Preservation System, to release other forest lands for multiple use management, to withdraw designated wilderness areas in Wyoming from minerals activity, and for other purposes, having considered the same, reports favorably thereon with amendments to the text and recommends that the bill, as amended, do pass.

The amendments are as follows:

1. On page 5, on line 11 delete all after the word "comprising" and delete all of line 12 and insert in lieu thereof: "approximately six hundred and thirty-five thousand seven hundred and twenty-nine acres".

2. On page 6, lines 12 through 18 delete all after the word, "approximately" to the end of the sentence and insert in lieu thereof:

> one hundred and one thousand five hundred and thirty-five acres as generally depicted on a map entitled, "Jedediah Smith Wilderness Area Proposal", numbered W-five and dated March 1983 and which shall be known as the Jedediah Smith Wilderness.

3. On page 10, delete line 16.

4. On page 11, delete lines 9 through 12.

5. On page 12 after line 22 insert a new subsection (c) as follows:

> (c) The provisions of section 308 of Public Law 97–394 shall not apply to lands within the National Forest System in Wyoming which have been previously designated by Act of

S313-12

Congress for inclusion in the National Wilderness Preservation System, or the lands which are so designated by this Act.

Purpose

The purpose of S. 543 as reported, is to designate seven areas of National Forest System lands in Wyoming totaling approximately 635,729 acres as components of the National Wilderness Preservation System. The bill would also direct the Forest Service to manage all other lands in the National Forest System in Wyoming for uses other than wilderness and would bar judicial review of the RARE II environmental impact statement with respect to those lands reviewed in Wyoming.

S. 543 also withdraws all designated wilderness in Wyoming, from appropriation under the mining laws and from disposition, under the mineral and geothermal leasing laws. The bill prohibits exploratory oil and gas drilling in the designated wilderness areas in Wyoming. S. 543 has several miscellaneous provisions including those directing the Secretary of Agriculture to review grazing activities within national forest wilderness in Wyoming and confirming the existing langauge in the 1964 Wilderness Act in reference to State water laws and State jurisdiction over fish and wildlife within wilderness areas in Wyoming.

Summary of Major Provisions

Title I declares findings and purposes.

Title II designates seven areas of National Forest System lands in Wyoming as units of or additions to units of the National Wilderness Preservation System.

Title III bars judicial review of the RARE II environmental impact statement with respect to Wyoming and releases for multiple uses other than wilderness all National Forest System lands in Wyoming not designated as wilderness by this Act or by previous Act of Congress. It prohibits reconsideration of the lands for wilderness in future planning efforts until after the year 2000, after which they would be available for consideration again.

Title IV withdraws all designated national forest wilderness in Wyoming from appropriation under the mining laws and from disposition under the mineral and geothermal leasing laws, subject to valid existing rights.

Title V prohibits exploratory oil and gas drilling within designated wilderness areas in Wyoming, and directs the Secretary of the Interior to assess the minerals potential of such lands.

Title VI contains miscellaneous provisions. Section 601 directs the Secretary of Agriculture to review policies, practices, and regulations regarding livestock grazing in wilderness areas in Wyoming to ensure that they are consistent with the intent of Congress. Section 602 parallels the language of the Wilderness Act as to the applicability of state water laws and as to the State's jurisdiction with respect to wildlife and fish. Section 603 bars the creation of buffer zones around wilderness areas and provides that because nonwilderness activities conducted outside an area can be seen or heard within the wilderness

that shall not, of itself, preclude such activities up to the wilderness boundary.

Background and Need

In June 1977, the U.S. Forest Service instituted its second Roadless Area Review and Evaluation (RARE II). This program was intended to survey the roadless and undeveloped areas within the National Forest Service and to distinguish areas suitable for wilderness designation from those most appropriate for other uses. The areas recommended for wilderness would be candidates for addition to the National Wilderness Preservation System by Congressional action. The remaining roadless lands were allocated to nonwilderness, for uses determined under the multiple-use planning process, or were allocated to further study.

In his proposals for RARE II lands made on April 16, 1979, President Carter made final recommendation to Congress based on the review of 2,919 identified roadless areas encompassing 62 million acres in the National Forest System, including the National Grasslands. The past Administration recommended that wilderness designation be given to approximately 15.4 million acres of the original 62 million acre roadless inventory. Another 10.8 million acres of roadless lands were determined to require further planning before decisions could be made on their future management. The balance of the areas—totaling about 36 million acres—were allotted for non-wilderness, multiple-use management.

Soon after the completion of RARE II, the State of California brought suit against the Secretary of Agriculture challenging the legal and factual sufficiency of the RARE II Final Environmental Statement insofar as its consideration of wilderness in more than 40 areas in the State of California was concerned. In January 1980 Judge Lawrence Karlton of the United States District Court for the Eastern District of California, in the *State of California* v. *Bergland*, 483 *F. Supp.* 465 (1980), held that the RARE II Final Environmental Statement had insufficiently considered the wilderness alternative for the specific areas challenged. Judge Karlton enjoined any development which would "change the wilderness character" of these areas until subsequent consideration of the wilderness values in accordance with the National Environmental Policy Act is completed by the Department of Agriculture.

While this court decision affects only the State of California, there has been considerable concern that similar suits might be filed in other states which would seriously disrupt the management of the national forest system.

The Ninth Circuit Court of Appeals issued a decision October 22, 1982, on the RARE II California suit, *California* v. *Block*. The decision generally upheld the district court's view that the Forest Service RARE II final environmental impact statement (EIS) was inadequate as to the challenged areas.

The RARE II process during 1977–1979 took place concurrently with the development by the Forest Service of a new land management planning process mandated by the National Forest Manage-

ment Act of 1976. That process requires that the land plans be revised periodically to provide for a variety of uses including wilderness. In conjunction with the National Environmental Policy Act, NFMA provides that the option of recommending land to Congress for inclusion in the National Wilderness Preservation System must be considered during the planning process for those lands which may be suited for wilderness. The Forest Service is presently developing the initial, or "first-generation" plan for each national forest. These are the so-called "section 6" plans and are to be completed by September 30, 1985. As one of the goals of RARE II was to consider the wilderness potential of all national forest roadless areas, the Forest Service regulations for implementing the National Forest Management Act (36 CFR 219.12 (3)), Federal Register, September 17, 1979, pg. 53988) provide that lands designated by RARE II for multiple uses other than wilderness need not again be considered for wilderness in the course of developing the "first generation" plans.

Wyoming has 9,252,329 acres of land in the National Forest System. Of those acres, 2,193,202 acres are already included in the National Wilderness Preservation System. The Forest Service in RARE II studied 3,928,000 acres of National Forest System lands in Wyoming that met the preliminary criteria for review. The past Administration recommended 996,400 acres proposed for wilderness designation, 407,-791 acres were ranked by the Forest Service as commercial forest acres.

S. 543, as reported, would add 635,729 acres to the present 2,193,202 acres for a total of 2,828,931 acres in the National Wilderness Preservation System. Thirty-one percent of National Forest System Lands in Wyoming would be designated as wilderness assuming S. 2118, as reported is enacted. Approximately 4.5 percent of the land area of Wyoming would be in the National Wilderness Preservation System.

Legislative History

S. 543 was introduced on February 22, 1983. S. 543 is similar to S. 2118 as reported by the Committee and as passed the Senate in the 97th Congress. The Public Lands and Reserved Water Subcommittee received testimony on S. 2118 on April 30, 1982 in Casper, Wyoming. The Wyoming Congressional delegation held a delegation workshop on S. 2118 on May 1, 1982 in Riverton, Wyoming. The written testimony was included in the April 30, 1982 hearing record. A hearing was held in Washington, D.C. on August 18, 1982. The administration supported S. 2118 as introduced, if amended. No hearings have been held in the 98th Congress. At a business session on March 25, 1983, the Committee on Energy and Natural Resources ordered S. 543, as amended, favorably reported.

Committee Recommendation and Tabulation of Votes

The Senate Committee on Energy and Natural Resources in an open business session on March 23, 1983, by a unanimous votes of a quorum present recommends that the Senate pass S. 543, with amendments as described herein.

The rollcall votes on reporting the measure was 20 yeas, 0 nays as follows:

YEAS	NAYS
Mr. McClure	
Mr. Hatfield [1]	
Mr. Weicker	
Mr. Domenici	
Mr. Wallop	
Mr. Warner	
Mr. Murkowski	
Mr. Nickles	
Mr. Hecht	
Mr. Chafee	
Mr. Heinz [1]	
Mr. Johnston	
Mr. Jackson	
Mr. Bumpers	
Mr. Ford	
Mr. Metzenbaum	
Mr. Matsunaga	
Mr. Melcher	
Mr. Tsongas	
Mr. Bradley	

[1] Indicates voted by proxy.

Area Descriptions

The areas recommended for inclusion in the National Wilderness Preservation System by this Act possess outstanding wilderness characteristics. The areas are rich in diversity including a wide variety of landforms, wildlife, and plant species. Many of the areas contain significant water resources values and provide important watershed protection. All provide excellent opportunities for dispersed recreation and solitude. The designation of these lands in Wyoming as wilderness will make an important and significant contribution to the National Wilderness Preservation System.

1. Gros Ventre—The area (pronounced Grow Vont), takes its name from the French word for the Nez Perce Indian Tribe, meaning "Big Belly." The 157,900 acre area in the Bridger-Teton National Forest is bounded on the west by Jackson Hole, Wyoming; on the north by Gros Ventre River; on the east by the upper reaches of the Green River; and on the south by the southern slopes of the Gros Ventre Range. Elevations range from 6,500 to 11,750 feet at Double Top Mountain.

The area is dominated by the Gros Ventre Range which includes some twenty peaks over 11,000 feet in elevation and more than 100 peaks that are over 10,000 feet. The area is perhaps best characterized by the mountain profile of the "Sleeping Indian" with the "Big Belly" (Gros Ventre) which dominates the eastern skyline of Jackson Hole, containing two peaks over 11,000 feet high.

The name Gros Ventre is more widely recognized from the massive land slide that occurred in 1925 above the Town of Kelly which subsequently dammed the Gros Ventre River causing a flood and destroying the town.

The Gros Ventre contains several interesting and unique expressions of geology. The southwestern quadrant contains one amazing collection of thrust faults. The area is frequently used as an outdoor laboratory by the University of Michigan which owns and maintains a field station on adjoining lands. The north quadrant from Sportsman Ridge to Gros Ventre Slide contains one of the largest concentrations of landslides in Wyoming. Many of these unstable landforms consisting of interbedded sandstone and shale layers are active slides.

The high meadows provide unusual wildflower displays contrasted with numerous water features including lakes, streams, and several singular waterfalls. The area contains over 250 miles of pristine streams, many of which contain a native cutthroat trout fishery. The more common large animals present in the area are elk, moose, deer, and several bands of bighorn sheep. The area is a historic habitat for bear including both the threatened grizzly and the more common species of black bear. Douglas fir, lodgepole pine, Engelmann spruce and alpine fir are the principal tree species.

The proposed area has several extant Forest Service grazing permits.

2. Cloud Peak—The 157,900 acre area in the Bighorn National Forest, encompasses 27 miles of the Bighorn Mountain Range. Most stream courses originate in glacial formed cirques and flow through U-shaped valleys. Lakes were formed in scooped-out granite basins or by moraine dams near the heads of the canyons. Ninety lakes and 55 miles of streams provide fishing opportunities. Many of the lakes occur above 9,000 feet, providing excellent habitat for cutthroat, rainbow and mackinaw trout. Largest of the lakes are Emerald, Geneva, Rainbow, Crater, Upper Crater, Solitude, Mistymoon, Glacier, Loomis, Angeline, Lame Deer, and Seven Brothers Lakes, Major drainages are Edelman North Paint Rock, Paint Rock, Kearny and Clear Creeks, Cloud Peak at 13,167 feet is the highest peak, followed by 13,005 foot Black Tooth Mountain.

The principal vegetative escosystems are Engelmann spruce-subalpine fir, lodgepole pine, dwarf trees, shrubs, grassland and meadow. Elk, moose, mule deer, bighorn sheep, black bear and numerous small mammals and birds inhabit the area.

The proposed area has several extant Forest Service grazing permits.

3. Popo Agie—The Popo Agie (pronounced Pop-o-shia), Wilderness is a 101,991 acre area in the Shoshone National Forest. The topography consists of deep narrow valleys set in a 25 mile stretch of the Southern Wind River Range. High jagged peaks are typical land form features of the area. Sheer granite walls are prevalent. Over twenty summits exceed 12,000 feet, and Wind River Peak at 13,225 feet elevation is the highest. The area's lowest elevation is 8,540 feet along the North Fork of Popo Agie River. Other drainages are Middle Popo Agie River, South Fork of Little Wind River, and Smith Lake, Deep and Tayo Creeks.

Principal forest ecosystems are Engelmann spruce subalpine fir, lodgepole pine, whitebark-limber pine and aspen. Over one-half of the area is grassland and rock and there are over 2,200 acres of lakes.

The montane, subalpine and alpine vegetation life zones are represented.

Over 46 lakes and 58 miles of streams contain grayling and cutthroat, brook and golden trout.

Elk, moose, mule deer, bighorn sheep and black bear are the major game animals. Smaller furbearers include coyote, badger, fox, beaver, bobcat, marten, mink, weasel and skunk. Marmots and pika inhabit the alpine country. Blue grouse, ruffed grouse, several species of hawks, crows, ravens and numerous species of smaller birds live within the area.

4. DuNoir—The DuNoir is a 11,100 acre area in the Shoshone National Forest which is part of the 28,000 acre Special Management Unit established by Sec. 51 of P.L. 92–476.

The DuNoir Unit is located at the headwaters of DuNoir Creek, Wind River Ranger District, Shoshone National Forest, about 25 miles northwest of Dubois, Wyoming.

The DuNoir Special Management Unit is a diverse area, ranging from rolling, tree-covered slopes to open, alpine vegetation. The Unit includes terrain suitable for intensive management and other areas that meet the criteria for wilderness. Through public involvement at both regional and local levels, the needs for both wilderness and the production of goods and services for local economic benefit have been identified.

Elevations range from 8,000 to 11,400 feet. Slopes vary from gently rolling valley bottoms to vertical cliffs. The general aspect is south with east and west slopes in the upper headwaters.

The Unit receives from 20 to 50 inches of precipitation yearly, mostly as snow during the winter and spring months. The summer and fall months are generally rather dry, except for brief thundershowers.

Coniferous forests cover about 23,000 acres (80 percent) of the Unit. Open parks, lakes and ponds, and rock account for the remaining 5,800 acres. The Unit contains habitat for a variety of different mammal, fish, bird, reptile and amphibian species. Deer, elk, and trout are common throughout the Unit. Bighorn sheep, coyote, black bears, and moose are found occasionally. Furbearers such as beaver and marten are present. Numerous small mammals and non-game birds find habitats throughout the Unit. Reptile and amphibian populations, primarily represented by snakes, lizards, toads, and frogs are low.

The Dubois economy has three main sectors: Agriculture, Forest and Forest Production, and Tourism and Recreation. The Agriculture sector generates about 12 percent of the total dollars in the local economy. The Forest Industry sector generates about 40 percent of the total, and the Tourism and Recreation sector contributes approximately 45 percent of the total.

5. Jedediah Smith—The proposed area is on the west slope of the Teton Mountains bordering the entire western edge of Grand Teton National Park. The area has similar scenic qualities as the more well known East Slope of the Tetons. It is adjacent to and below the major peaks of the Teton Range. The Jedediah Smith area is characterized by parallel westerly flowing entrenched glacio-fluvial drainages. Landforms from east to west include rocky ridges, cirques, glacial troughs, canyons, and broad, intercanyon ramps.

Lower elevations have mixed stands dominated by aspen families. As elevation increases, the area becomes heavily forested with lodgepole pine and Douglas-fir stands. At higher altitudes are mixed stands of lodge-pole, Douglas-fir, alpine fir and Engelmann spruce, topped out with limber pine. These high altitude stands are on steep slopes. The highest ranges are non-forested alpine areas. Ground vegetation varies from heavy grass-brush types at lower elevations to sparse grass-forb types at higher elevations. A wide variety of wildflowers in the spring and summer and fall colors of autumn are additional scenic attractions.

The Jedediah Smith area is a heavy water producer feeding substantial flows into the Fall and Teton Rivers. Snow accumulates to great depths. High education lakes and creeks are common. Streams in the canyon bottoms support rainbow, cutthroat and brook trout.

Deer, elk, moose and black bear are fairly common. Bighorn sheep are rarely seen because of the difficulty of access to their habitat. There are heavy spruce bottom riparian habitats supporting picas, wolverines, and fishers. Old growth forest habitat supports unique nongame birds. The alpine cliffs are frequented by the unique black crowned rosy finch. The cliffs have historic peregrine falcon (an endangered species) nesting sites and are a potential habitat reintroduction area. The area is a travel corridor for the endangered grizzly bear and is a potential expansion area for this species. The proposed area has several extant grazing permits.

6. The corridor addition to the Teton Wilderness—The proposed addition is located in northwestern Wyoming about 40 miles north of Jackson. It is essentially an enclosure between Teton Wilderness and Yellowstone and Grand Teton National Parks. The area contains mountain peaks, picturesque cliffs and rock outcrops with some high alpine meadows. Most of the slopes are of moderate steepness. The highest elevation is Huckleberry Mountain, which is on a long fault, where vertical displacement exceeds 200 feet in some places.

Coniferous forests consists of Douglas-fir, Engelmann spruce, alpine fir, and lodgepole pine. They cover approximately 81 percent of the area. Other forested lands and brush plant communities make up about 14 percent while rocks, grass and water cover about five percent of the area.

The area provides habitat for the larger species of wildlife which includes elk, moose, and mule deer. Also threatened wildlife species such as grizzly bear, and possibly wolverine and wolf from Yellowstone National Park use the area. Other predators are coyote and black bear. The area may qualify for "critical habitat" designation for grizzly bear under the Threatened and Endangered Species Act.

There are four significant streams that flow through the area with each having populations of cutthreat and brook trout. Arizona Lake lies within the area and does support a fishery of brook and cutthroat trout.

7. Whiskey Mountain (Glacier Primitive Area addition)—The world's largest bighorn sheep herd summer ranges are located throughout the Whiskey Mountain area, Jakey's Fork area and areas south of the Simpson-Marion Lake Basin. The bulk of the important bighorn sheep habitat contained in these areas was not recommended by the Forest Service for designation as wilderness. Yet, the natural pristine nature of the habitat in these areas is the singular factor

required by bighorn sheep for survival. The welfare of the bighorn sheep is a primary management consideration throughout the northern portion of the Fitzpatrick Wilderness. The principal factor in continued herd growth and viability is the preservation of a natural condition which wilderness insures.

Whiskey Mountain, the high point, serves as critical winter range for bighorn sheep herds. The grass-covered slopes, which are blown free of snow in the winter, offer vegetative contrast to the heavily-forested and rock glacier country in the adjacent Fitzpatrick Wilderness, and forage for the bighorns.

Committee Amendments

The Committee adopted five amendments to S. 543 as introduced. The amendments are as follows:

1. This amendment corrects the total acreage designated as wilderness in Wyoming and is technical in nature to conform to the acreage changes made by amendment number two.

2. This amendment deletes three areas in the proposed Jedediah Smith Wilderness (West Slope of the Tetons) which equal approximately 23,000 acres, and adds two areas which total approximately 7,680 acres. This results in a net decrease of about 15,320 acres of proposed wilderness in S. 543 as introduced.

3. This amendment makes National Forest System lands in the State of Wyoming not designated as wilderness by this act of previous acts subject to the provisions of section 308 of Public Law 97–394. Section 308 of Public Law 97–394 prohibits the use of funds to process or issue permits or leases for exploration for or development of oil and gas and other selected minerals on Federal lands in components of the National Wilderness Preservation System or wilderness candidate areas. Section 308 of Public Law 97–394 also establishes a system of permits for prospecting, seismic survey and core samplings. Section 308 also provides for mineral inventories pursuant to section 4(d)(2) of the Wilderness Act. Those provisions in section 308 of Public Law 97–394 exempts lands in the national forest system released to non-wilderness uses by an Act of Congress. This amendment corrects a redundancy.

4. This amendment deletes a redundancy. The Secretary of Agriculture is directed in section 302(b) to manage all national forest lands in Wyoming not in wilderness for other uses and declares all current and future land management plans which are approved before the year 2000 have been given adequate consideration for wilderness suitability.

5. This amendment clarifies the wilderness management provisions that pertain to exploration in Public Law 97–394 do not apply to lands designated as wilderness in Wyoming. The Wyoming Wilderness Act withdraws all existing wilderness and wilderness established by this Act from all mineral leasing and prohibits exploratory drilling in such areas.

Section-by-Section Analysis

TITLE I—SHORT TITLE, FINDINGS AND PURPOSE

It is the Committee's intent that the Forest Service still retain its

authority to manage nonwilderness national forest lands in Wyoming for a wide spectrum of uses ranging all the way from near-natural management to full-scale development. Each area's management will be determined through the normal forest land use planning process or specific project plans. This intent is clearly spelled out in Section 102 (b) (4) which states that nonwilderness lands shall be managed for a wide variety of uses, except that they may not be managed as wilderness unless Congress so indicates. However, they may still be managed for such nonconsumptive uses as fish and wildlife protection, scenic enjoyment, recreation, and preservation of natural characteristics as well as timbering, mineral exploration and extraction, and other kinds of development. The Committee emphasizes that the list of uses in Section 102(b) (4) is not exhaustive and includes all uses authorized by law to save wilderness.

TITLE II—ADDITIONS TO THE NATIONAL WILDERNESS PRESERVATION SYSTEM

Section 201(a) (1). Cloud Peak Wilderness

This area is designated as a 157,900-acre Cloud Peak Wilderness in the Bighorn National Forest. The area proposed is approximately 900 acres larger than the Administration's recommendation for wilderness. This 900 acre area is on the East side of the proposed wilderness and was added to make a more manageable boundary.

Section 201(a) (2). Popo Agie Wilderness

This area is designated as a 101,991-acre Popo Agie Wilderness in the Shoshone National Forest. The proposed Popo Agie Wilderness consists of RARE II roadless area A2901, the Popo Agie Primitive Area, and lands contiguous to the Primitive Area.

Section 201(a) (3). Gros Ventre Wilderness

The area is designated as a 228,550-acre Gros Ventre Wilderness in the Bridger Teton National Forest. The proposed Gros Ventre Wilderness is less in area than the RARE II proposal of 280,000 acres. The Little Granite area on the southwest corner of the area is excluded because of its high oil and gas potential. The Little Granite area lies above a portion of the Overthrust Belt, a major geologic formation running from Utah to Canada with tremendous, proven oil and gas reserves to the south and north. The Little Granite area has been leased for oil and gas and a drilling permit for an exploratory well has been granted, with road construction planned. Since current law and S. 543 specifically protect valid existing rights, wilderness designation would not halt the well.

A joint DOA/DOI environmental impact statement on this well has concluded that proper management could mitigate or minimize most adverse impacts associated with the well. After extraction of the oil/gas and rehabilitation with proper management, the area could again be considered for wilderness suitability after the year 2000. The Committee expects the Forest Service to manage this area in a way as to protect its natural values while energy exploration and development is occurring, so that it can be reconsidered for wilderness suitability in the future after the year 2000.

While the remaining RARE II lands in the Bridger-Teton National Forest are to be managed for multiple uses other than wilderness,

the Committee notes that there is strong local interest in managing them in such a way so as to protect elk calving and migration routes, other wildlife, recreation, and scenic values while allowing for timbering, mineral development, and other multiple uses. The Committee expects the Forest Service to carefully consider wildlife values as it makes land management decisions for these areas, and encourages the Forest Service to consider roadless timber extraction techniques and other protective management practices where they are practical and economical.

The northeast boundary of the proposed Gros Ventre Wilderness was drawn to include the Kinky Creek Area and exclude a corridor to allow for snowmobiling access from Union Pass and the Green River drainage to the Gros Ventre and Jackson Hole.

Section 201(a)(4). Jedediah Smith Wilderness

The area is designated as a 101,535-acre Jedediah Smith Wilderness in the Targhee National Forest. The proposed area is smaller than the administrations recommendation for wilderness. A Committee amendment was adopted which deletes approximately 23,000 acres of the proposed area that have high timber values, provide recreational opportunities and water supply development for local communities. Approximately 7,680 acres were added by the Committee amendment that is in the northern portion of the proposed wilderness. This area is grizzly bear habitat. The eastern boundary of the proposed area is contiguous to Grand Teton National Park. The Committee expects the Forest Service and National Park Service to continue to coordinate management for the proposed wilderness and Grand Teton National Park backcountry.

Section 201(a)(5). DuNoir Addition to the Washakie Wilderness

The area is designated as a 11,100-acre DuNoir Addition to the Washakie Wilderness in the Shoshone National Forest. The Reagan Administration has recommended the same area and acreage.

Section 201(a)(6). Corridor Addition to the Teton Wilderness

The area is designated as a 28,156-acre Corridor Addition to the Teton Wilderness in the Bridger-Teton National Forest. The proposed addition consists of RARE II roadless area 04101.

The boundary was drawn to provide for several small hunter enclaves which have been left outside of the wilderness boundary at key access points so that hunters and others can continue to drive into them and park or camp as they have in the past.

The Committee notes that there is an abandoned, rustic, log fire lookout on Huckleberry Ridge which was constructed in the 1930's. The building has historic value and will be used by the Forest Service for monitoring the Wilderness Natural Fire Program.

Section 201(a)(7). Glacier Addition to the Fitzpatrick Wilderness

The area is designated as a 6,497-acre Glacier Addition to the Fitzpatrick Wilderness in the Shoshone National Forest. This area was designated by Congress as the Glacier Primitive Area by Public Law 94–567 after being included in the Fitzpatrick Wilderness as established by Public Law 94–557.

The area is winter range for a large herd of bighorn sheep. The Forest Service and Wyoming Game and Fish Department conduct extensive surveys, trapping operations, tagging and transporting the sheep to other areas. The Committee expects these administrative operations to continue unimpaired by wilderness designation.

Section 201(b) restricts the use of any roads to be constructed in the special management unit as established by Public Law 92–476, and not designated by this Act as wilderness to those authorized uses and related administrative uses. The roads are not to be available for general public travel. The Committee expects the Forest Service to closely monitor wildlife migrations and habitat areas before allowing roads to be constructed and to regulate authorized uses for such road to protect wildlife values. This paragraph does not authorize the construction or use of roads in the proposed DuNoir Addition to the Washakie Wilderness.

Section 201(c) repeals section 5 of Public Law 92–476 (86 Stat. 792) which prohibited the construction or expansion of roads in the special management unit.

Section 201(d) authorizes motorized access for the purposes listed in section 201(a)(7) and the proper management of the bighorn sheep population. This language does not authorize hunting with the use of motorized vehicles or the construction of roads.

Section 201(e) abolishes primitive area designation for the areas as listed which are designated as Wilderness by this act.

Section 202 provides for the filing of maps and legal descriptions of the proposed areas.

Section 203 is self explanatory.

TITLE III—RELEASE OF LANDS FOR MULTIPLE USE MANAGEMENT

Section 301. This section makes Congressional findings that both the Department of Agriculture and Congress have reviewed and examined national forest roadless areas in Wyoming.

Section 302(a). Soon after the completion of RARE II, the State of California brought suit against the Secretary of Agriculture challenging the legal and factual sufficiency of the RARE II Final Environment Statement insofar as its consideration of wilderness in more than 40 areas in the State of California. In January 1980 Judge Lawrence Karlton of the United States District Court for the Eastern District of California, in the *State of California* v. *Bergland*, 483 F. Supp. (1980), held that the RARE II Final Environmental Statement had insufficiently considered the wilderness alternative for the specific areas challenged. Judge Karlton enjoyed any development which would "change the wilderness character" of these areas until subsequent consideration of the wilderness values in accordance with the National Environmental Policy Act is completed by the Department of Agriculture.

While this court decision affects only the State of California, there has been considerable concern that similar suits might be filed in other States which would seriously disrupt the management of the national forest system.

The Ninth Circuit Court of Appeals issued a decision October 22, 1982, on the RARE II California suit, *California* v. *Block*. The deci-

sion generally upheld the district court's view that the Forest Service RARE II final environmental impact statement (EIS) was inadequate as to the challenged areas.

The Wilderness Act of 1964 provides that only Congress can designate land for inclusion in the National Wilderness Preservation System. Since the Committee has, in the course of developing this bill, very carefully reviewed the roadless areas in Wyoming for possible inclusion in the National Wilderness Preservation System, the Committee believes that judicial review of the RARE II Environmental Statement insofar as national forest system lands in Wyoming are concerned is unnecessary. Therefore, the bill provides that the Final Environmental Statement is not subject to judicial review with respect to national forest system lands in Wyoming.

In the course of developing this language, concerns were raised about the potential impact of the "no judicial review" language on any litigation that might arise in other States concerning the RARE II Environmental Statement. The RARE II Final Environmental Statement is a single statement covering all States. A separate Final Environmental Statement was not issued for each State. Therefore, some expressed concern that insulating the statement from judicial review insofar as lands in Wyoming are concerned would be taken to imply that the statement was legally and factually sufficient for lands in other States. By contrast, others expressed concern that providing an exception for judicial review only after a Congressional review of roadless areas in Wyoming would imply that the Final Environmental Statement was deficient in States where such Congressional review has not taken place. The Committee. therefore, expressly States in the legislation that it is not passing on the question of the legal and factual sufficiency of the Final Environmental Statement with respect to national forest lands in States other than Wyoming. The Committee has not addressed that question and takes no position on it directly or impliedly. It should be noted, however, that the Senate has passed language similar to this regarding judicial review of the RARE II EIS in Oregon, Colorado, New Mexico, and Alaska.

Section 302(b). The RARE II process during 1977–79 took place concurrently with the development by the Forest Service of a new land management planning process mandated by the National Forest Management Act (NFMA) of 1976. That process requires that the land plans be revised periodically to provide for a variety of uses including wilderness. In conjunction with the national Environmental Policy Act, NFMA provides that the option of recommending land to Congress for inclusion in the National Wilderness Preservation System must be considered during the planning process for those lands which may be suited for the wilderness. The Forest Service is presently developing the initial, or "first-generation," plan for each national forest. These are the so-called "section 6" plans and are to be completed by September 30, 1985. As one of the goals of RARE II was to consider the wilderness potential of all national forest roadless areas, the Forest Service regulations for implementing the National Forest Management Act (36 CFR 219.12(3), Federal Register, September 17, 1979, p. 53988) provide that lands designated by RARE II for multiple use other than wilderness needed not again be considered for wilderness in the course of developing the "first generation" plans.

The Committee believes that further consideration of wilderness during development of the initial plans for the national forest system roadless area in Wyoming not designated as wilderness upon enactment of S. 543 would be duplicative of the study and review which has recently taken place by both the Forest Service and the Congress.

Beyond the initial plan, lies the issue of when the wilderness option for roadless areas should again be considered. As noted, the initial plans are to be completed by September 30, 1985. The National Forest Management Act provides that a plan shall be in effect for no longer than 15 years before it is revised.

The bill, as reported, provides that the Department of Agriculture cannot review the wilderness option until the first planning cycle after December 31, 2000. Chief of the Forest Service Max Peterson has indicated that, in his view, most plans will be in existence for approximately ten years before they are revised. The Committee shares this view and anticipates that the vast majority of plans will not be revised significantly in advance of their anticipated maximum life span absent extraordinary circumstances. The Committee understands and expects that with forest plans to be in effect by late 1985, the time of revision for most plans will begin in approximately 1993.

Chief Peterson has indicated that revision of plans generally would begin approximately two years before a new plan is to be put into effect. Although continuing forest inventories and other data gathering used in the plan revision process may well begin some years ahead of the actual revision, this inventorying process should not be considered a part of the revision time period. The Committee intends that the revision process should be considered to commence when the Forest Service publishes in the Federal Register its announcement of the beginning of the Draft Environmental Impact Statement process for the plan being developed.

The fact that the wilderness option for roadless areas will be considered in the future during the planning process raises the hypothetical argument that the areas must be managed to preserve their wilderness attributes so these may be considered in the future. Such an interpretation would result in all roadless areas being kept in de facto wilderness for a succession of future planning processes. Such a situation would completely frustrate the orderly management of non-wilderness lands and the goals of the Forest and Rangeland Renewable Resources Planning Act.

To eliminate any possible misunderstanding on this point, the bill provides that all National Forest lands in Wyoming not designated as wilderness, shall be managed for multiple uses other than wilderness. The Committee believes the Forest Service already has statutory authority to manage roadless areas for multiple use, nonwilderness purposes. It wishes to make clear, however, that study of the wilderness option in future generations of Section 6 plans is required only for those lands which may be suited for wilderness at the time of the initiation of such future planning after December 31, 2000. There is no bar to management which may, as a practical matter, result in the land no longer being suited for wilderness.

For example, under this language, the Forest Service may conduct a timber sale in a roadless area and not be challenged on the basis that the area must be considered for wilderness in a future planning cycle. Once into a second-generation plan, the Forest Service may, of course,

manage a roadless area according to that plan without the necessity of preserving the wilderness option for the third-generation planning process. Should the particular area still be suited for possible wilderness at the time of the third generation planning process, the wilderness option would be considered at that time. In short, the wilderness option must be considered in each future planning generation begun after December 31, 2000, if the particular land in question still possesses wilderness attributes. But the statute prohibits the FS from directing that these attributes be preserved solely for the purpose of their future evaluation in the planning process.

The final issue addressed by the Committee in Section 302(c) of S. 543, as reported, pertains to the possibility of future administrative reviews similar to RARE I and RARE II. With the National Forest Management Act planning process now in place, the Committee wishes to see the development of any future wilderness recommendations by the Forest Service take place only through that planning process, unless Congress expressly asks for other additional evaluations. Therefore, the legislation direst the Department of Agriculture not to conduct any further statewide roadless area review and evaluation of national forest system lands in Wyoming for the purpose of determining their suitability for inclusion in the Nation Wilderness Preservation System.

The Committee recognizes that this directive might technically be evaded by conducting such a study on some basis slightly smaller than statewide. The Committee is confident, however, that the Department recognizes the spirit as well as the letter of this language and that the Committee can expect there will be no "RARE III".

S. 543 makes four RARE II areas in southwest Wyoming in the Medicine Bow National Forest which the Forest Service recommended for wilderness designation available for uses other than wilderness. Snowy Range, Platte River, Encampment River, and Huston Park. The Snowy Range area is a popular snowmobile area for 100 to 200 snowmobiles on a good winter weekend. The Platte River, Encampment River, and Huston Park areas are in a region which is being studied by the Wyoming Legislature and state agencies for water development projects which would serve an eight-county area and such major population centers as Cheyenne, Laramie and Casper. Wilderness designation of these areas could hinder proposed water development in the Medicine Bow National Forest. The Committee recognizes that all four of these areas are highly scenic and popular recreation areas for many people in southeast Wyoming and should be protected. The Committee expects the Forest Service to continue to manage these four areas in the Medicine Bow National Forest to protect their recreational and scenic values, but allow water development activities to take place in accordance with current state and federal laws and regulations.

TITLE IV—WITHDRAWAL OF DESIGNATED WILDERNESS AREAS FROM OPERATION OF MINING AND MINERAL LEASING LAWS

Section 401. This section would permanently withdraw lands in the National Forest System in Wyoming which have been previously designated by Congress as components of the NWPS and lands so designated by this Act from all mineral and geothermal leasing and

from all forms of appropriation under the mining laws, subject to valid existing rights.

S. 543 does *not* limit the withdrawal to specific minerals. The withdrawal is applicable only to existing components of the NWPS in the National Forest System in Wyoming established by Congress and the components established by Congress in this Act. The withdrawal does not apply to components of the Wilderness System which may be established by Congress in the future. The withdrawal does not apply to areas proposed as wilderness, wilderness study areas or further planning areas of RARE II.

TITLE V—ASSESSMENT OF MINERALS, PROHIBITION OF DRILLING

Section 501(a). This section restates the intent of section 4(d)(2) of the Wilderness Act and anticipates that the U.S.G.S. and Bureau of Mines mineral assessment studies will continue at present levels of assessment in Wyoming subject to the ban on exploratory drilling for oil and gas in any congressionally designated unit of the NWPS in Wyoming.

Section 501(b). Prohibits exploratory drilling within the boundaries of any unit described have for the purpose of assessing oil and gas potential. Slant drilling from outside the wilderness boundaries would be permissible. However, leasing would be prohibited in the wilderness under the proposal. Seismic activities are not prohibited by the proposal and would be permissible under current law and FS regulations.

Section 501(c) exempts all national forest system lands which have been designated as wilderness in Wyoming from the provision of section 308 of Public Law 97–394. S. 543 as reported, withdraws all existing wilderness and wilderness established by this Act from all mineral leasing and prohibits exploratory drilling in such areas.

TITLE VI—MISCELLANEOUS PROVISIONS

Section 601. This section includes language regarding grazing activities in wilderness areas in Wyoming. This language was included to help insure that the Forest Service implements the guidelines on this subject included in the House report (96–617).

A summary of the guidelines formed by the Senate and House Committees having jurisdiction over wilderness designation and management state (1) there will be no curtailment of grazing in wilderness areas simply because an area is, or has been designated as wilderness, (2) maintenance of existing fences, line cabins, stock tanks, water wells, lines and other support facilities is permissible, (3) natural materials need not be required for the replacement or reconstruction of deteriorated facilities, (4) the construction of new improvements is permissible, and (5) motorized equipment may be used for emergency purposes.

Sections 602 and 603 are self explanatory.

Cost and Budgetary Considerations

The Committee does not anticipate any additional budgetary impact from enactment of S. 543. To designate certain national forest system lands in the State of Wyoming for inclusion in the National

Wilderness Preservation System, to release other forest lands for multiple use management, to withdraw designated wilderness areas in Wyoming from minerals activity, and for other purposes.

The measure (S. 543) does not authorize any additional budget authority. The Committee intends that any fiscal year 1983 costs associated with implementation of the bill be absorbed within funds otherwise available to the Department of Agriculture.

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., March 25, 1983.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed S. 543, the Wyoming Wilderness Act of 1983, as ordered reported by the Senate Committee on Energy and Natural Resources, March 23, 1983.

This bill adds approximately 635,729 acres of national forest system lands in Wyoming to the national wilderness preservation system and stipulates that all lands designated as wilderness in the State of Wyoming are to be withdrawn from all forms of mining and minerals activities. The bill also directs the Secretary of Agriculture to review livestock grazing practices in wilderness areas in Wyoming. Based on information from the National Forest Service, it is estimated that additional costs to the federal government resulting from the surveying, planning and related activities necessary to implement the wilderness withdrawals will be approximately $250,000 per year during the three fiscal years beginning with 1983.

According to the provisions of the National Wilderness Preservation System Act, all timber in areas designated as units of the national wilderness preservation system is removed from the timber base of the national forest in which it is located. This results in a reduction of the annual potential yield of the forest. However, the reduction in the timber base that will occur as a result of enactment of S. 543 is not expected to result in any lost timber receipts of the federal government, because the actual cut in the affected forests does not approach the maximum set by their annual potential yields.

The bill also withdraws lands designated as wilderness in Wyoming from mineral activity. This provision could have a significant budget impact because geologic information indicates that a number of areas involved have a high mineral potential. However, because there is very little information available regarding the potential value of such minerals, no estimate of the possible loss in federal mineral leasing receipts can be made.

All roadless areas in national forests not designated as wilderness or expressly excluded from further review by act of Congress are currently being reevaluated for their suitability for inclusion in the national wilderness preservation system. This bill contains language removing all roadless areas in Wyoming from this review. Thus, enactment of this legislation will result in a savings to the federal government over the three fiscal years beginning with 1983 of approximately

$2–$4 million (the amount it would have cost the National Forest Service to prepare revised land management plans for the affected areas).

Enactment of this bill would not affect the budgets of state and local governments.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

JAMES BLUM
(For Alice M. Rivlin, Director).

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 543 as reported. S. 543 would designate certain national forest system lands in the State of Wyoming for inclusion in the National Wilderness Preservation System, to release other forest lands for multiple use management, to withdraw designated wilderness areas in Wyoming from minerals activity, and for other purposes.

The bill is not a regulatory measure in the sense of imposing Government established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little if any additional paperwork would result from the enactment of S. 543.

EXECUTIVE COMMUNICATIONS

The pertinent legislative report received by the Committee from the Department of Agriculture setting forth Executive agency recommendations relating to S. 543 is set forth below:

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., April 1, 1983.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: As you requested, here is our report on S. 543, as reported by the Committee on Energy and Natural Resources on March 23, 1983, a bill "To designate certain National Forest System lands in the State of Wyoming for inclusion in the National Wilderness Preservation System, to release other forest lands for multiple use management, to withdraw designated wildernesss areas in Wyoming from minerals activity, and for other purposes."

The Department of Agriculture recommends that the bill be enacted with the amendments suggested herein.

S. 543 would designate four new wildernesses and three additions to existing wildernesses in the State of Wyoming. These designations would add about 635,729 acres to the National Wilderness Preservation System in the State of Wyoming. The bill includes additional provisions that would release all other lands identified in the second

Roadless Area Review and Evaluation (RARE II) for other multiple use activities, it would withdraw designated wildernesses in Wyoming from mineral activity, and it would provide for continued assessment of mineral potential in designated wilderness.

The previous Administration, as a result of RARE II, recommended nine new wilderness and five wilderness additions in the State of Wyoming for a total of 996,400 acres.

All four new wildernesses included in S. 543 are roadless or undeveloped areas on National Forest System lands in Wyoming that were included in RARE II. Although the boundaries of the four proposed wildernesses differ from those proposed in RARE II, the majority of the lands included in the bill were recommended for wilderness as a result of RARE II and we have no objections to the revised boundaries as proposed. One minor exception is a 1,900-acre portion of the proposed Cloud Peak wilderness included in S. 543 that was part of the Cloud Peak Primitive Area and not previously endorsed for wilderness. In 1974, the Forest Service recommended the Coffeen Park area not be designated because of a constructed dam, wagon roads, mine shafts, deserted cabins, and other evidence of man's imprint. The proposed wilderness would be enhanced if this area was not designated.

However, we recommend that section 201(b) regarding special management for a portion of the DuNoir area be deleted from the bill. Section 201(b) as written would appear to lead to construction of single purpose roads. A road constructed for minerals exploration could not later be used for other authorized uses such as timber harvest or range administration. We believe the forest plan for the Shoshone National Forest can adequately consider the needs of the resident and migrating elk herds and other wildlife in the area (approximately 17,700 acres) identified as the DuNoir Special Management Unit. In forest planning, the Forest Service works closely with the State Fish and Game agencies and interested publics and groups on planning related to wildlife.

We do not support the addition to the Fitzpatrick Wilderness of the Glacier Primitive Area. This area contains approximately 6,497 acres and is known locally as Whiskey Mountain. The general area, including the Primitive Area, has one of the largest bighorn sheep herds in the United States. This is a major source of animals for restocking elsewhere. Approximately 120 head of sheep are trapped each year. Motorized access in the area is necessary to trap and transport these animals. We believe this area can be best managed under direction provided in the forest land management plan. We recommend that the primitive area classification be abolished and that the area not be added to the wilderness.

Title IV provides for a withdrawal of designated wilderness from operation of the mining and mineral leasing laws, subject to valid existing rights. Coupled with the release provisions of Title III, we believe the bill strikes a reasonable balance providing protection for the wilderness resource while, at the same time, making available certain RARE II inventoried lands for other uses and providing for inventory of minerals in wilderness. This bill would end the long uncertainty regarding RARE II in Wyoming.

We ask that the Committee clarify the intent of section 501(b). It is unclear without more specific language whether seismic exploration

is permitted, or whether the authors intended to prohibit seismic holes as well as deep exploratory drilling. Other than this clarification, we support the provisions of section 501.

We have no objections to the miscellaneous provisions of title VI dealing with grazing, water laws, and buffer zones.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

RICHARD E. LYNG,
Acting Secretary.

CHANGE IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill S. 543 as ordered are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

PUBLIC LAW 92–476

AN ACT to designate the Stratified Primitive Area as a part of the Washakie Wilderness, heretofore known as the South Absaroka Wilderness, Shoshone National Forrest, in the State of Wyoming, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with subsection 3(b) of the Wilderness Act of September 3, 1964 (78 Stat. 891), the area classified as the Stratified Primitive Area, with the proposed additions thereto and deletions therefrom, comprising an area of approximately two hundred and eight thousand acres as generally depicted on a map entitled "Washakie Wilderness—Proposed," dated June 15, 1967, revised September 12, 1970, which is on file and available for public inspection in the office of the Chief, Forest Service, Department of Agriculture, is hereby designated for addition to and as a part of the area heretofore known ass the South Absaroka Wilderness, which is hereby renamed as the Washakie Wilderness.

SEC. 2. As soon as practicable after this Act takes effect, the Secretary of Agriculture shall file a map and a legal description of the Washakie Wilderness with the Interior and Insular Affairs Committees of the United States Senate and the House of Representatives, and such description shall have the same force and effect as if included in this Act: *Provided, however*, That correction of clerical and typographical errors in such legal description and map may be made.

SEC. 3. The Stratified Primitive Area addition to the Washakie Wilderness shall be administered as a part of the Washakie Wilderness by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wildernesss Act shall be deemed to be a reference to the effective date of this Act.

SEC. 4. The previous classification of the Stratified Primitive Area is hereby abolished.

[SEC. 5. (a) Within the area depicted as the Special Management Unit on the map referred to in section 1 of this Act, the Secretary of Agriculture shall not permit harvesting of timber or public or private vehicular use of any existing road, and shall not construct or permit the construction or expansion of any road in said Special Management Unit. The Secretary shall administer said unit in accordance with the laws, rules, and regulations relating to the national forests especially to provide for nonvehicular access recreation and may construct such facilities and take such measures as are necessary for the health and safety of visitors and to protect the resources of said unit: *Provided, however*, That this section shall not affect such vehicular use and maintenance of existing roads as may be necessary for the administration of said unit by the Secretary of Agriculture.

(b) The Secretary of Agriculture shall initiate a continuing study of the Special Management Unit and at the end of the five-year period following the enactment of this Act shall recommend to the President and the Congress what he considers to be the area's highest and best public use.

(c) As soon as practicable after this Act takes effect, the Secretary of Agriculture shall file a map and legal description of the area referred to in subsection (a) with the Interior and Insular Affairs Committees of the United States Senate and the House of Representatives, and such description shall have the same force and effect as included in this Act: *Provided, however*, That corrections of clerical and typographical errors in such legal description and map may be made.]

Approved October 9, 1972.

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